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SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS



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ANNUAL REPORT 1987-1988

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State Budget And Control Board

LETTER OF TRANSMITTAL

The Honorable Carroll Campbell Governor and Members of the General Assembly.

Gentlemen and Ladies:

We are pleased to submit, in accordance with the requirements of the S.C. Consumer Protection Code, the Fourteenth Annual Report of the S.C. Department of Consumer Affairs for the period July 1, 1987 to June 30, 1988. Correspondence may be addressed to all Commissioners, c/o S.C. Department of Consumer Affairs, Post Office Box 5757, Columbia, S.C. 29250

Respectfully submitted,

COMMISSION ON CONSUMER AFFAIRS

Emil W. Wald, Chairman, Rock Hill

Lehman A. Moseley, Jr., Vice Chairman
Greenville

W. Lewis Burke, Columbia

John T. Campbell, Columbia

Rev. A. Clark Jenkins, Johns Island

Richard C. Moore, Greenville

Thomas L. Moore, Clearwater

Dr. Lonnie Randolph, Jr. Columbia

Timothy F. Rogers, Columbia

Nell W. Stewart, Greenville

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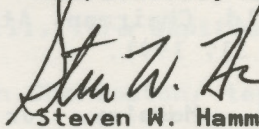
REPORT

TO: The S.C. Commission on Consumer Affairs

Gentlemen and Ladies:

In compliance with the requirements of the S.C. Consumer Protection Code, I am pleased to present, herewith, the Fourteenth Annual Report of the S.C. Department of Consumer Affairs covering Fiscal Year 1988. This is the thirteenth full-year report of the S.C. Department of Consumer Affairs and includes information on its operation, functions, duties, and organization. Information on consumer complaints and registered creditors subject to the provisions of the S.C. Consumer Protection Code is included in summary form.

Respectfully submitted,


Steven W. Hamm
Administrator

August 31, 1988
Columbia, South Carolina

DEPARTMENT OF CONSUMER AFFAIRS
Organization

I. COMMISSION ON CONSUMER AFFAIRS

The Commission on Consumer Affairs is composed of 11 members, one of whom is the Secretary of State. Of the remaining 10 members, one each is elected from the membership of the Senate and the House of Representatives. The General Assembly elects four other members from outside the legislature and the Governor appoints four other members whose appointments are confirmed by the Senate. The commission is the policy - making and governing authority of the S.C. Department of Consumer Affairs, appoints the Administrator and is responsible for enforcement of the S.C. Consumer Protection Code. As of the date of this report, the members of the S.C. Commission on Consumer Affairs are:

Mr. Emil W. Wald, Chairman, Attorney, Rock Hill, whose term expires August 31, 1991.

Mr. Lehman A. Moseley, Jr., Vice-Chairman, Attorney, Greenville, term expired August 31, 1981 but still serving.

Mr. W. Lewis Burke, Educator, Columbia, term expired August 31, 1987 but still serving.

Secretary of State John T. Campbell, Columbia.

Rev. A. Clark Jenkins, Minister, Johns Island term expires August 31, 1989.

Mr. Richard C. Moore, Attorney, Greenville, term expires August 31, 1992.

Sen. Thomas L. Moore, Businessman, Clearwater, term runs concurrent with term of office.

Dr. Lonnie Randolph, Jr., Optometrist, Columbia, term expires August 31, 1990

Rep. Timothy F. Rogers, Attorney, Columbia, term runs concurrent with term of office.

Ms. Nell W. Stewart, Business Executive, Greenville, term expires August 31, 1990.

II. COUNCIL OF ADVISORS ON CONSUMER CREDIT

The Council of Advisors on Consumer Credit consists of 16 members who are appointed by the Governor. One of the advisors is designated by the Governor as chairman. The Council advises and consults with the Administrator

concerning the exercise of his powers under the S.C. Consumer Protection Code and may make recommendations to the Administrator. Members may assist the Administrator in obtaining compliance with the S.C. Consumer Protection Code. The following served as members of the Council of Advisors during the period July 1, 1987 through June 30, 1988.

Adair Crawley, Secretary, Columbia, term expires August 15, 1989.

Mason G. Alexander, Greenville, term expired August 15, 1987 but still serving.

William C. Brock, term expired August 15, 1987 but still serving.

Linda Caggiano, Rock Hill, term expires August 15, 1988.

Larry Emanuelson, North Charleston, term expires August 15, 1990.

F. M. C. Fralix, Columbia, term expires August 15, 1990.

Robert N. Hubbs, Lexington, term expires August 15, 1990.

C. Brian McLane, Columbia, term expires August 15, 1989.

Daniel R. Molony, Charleston, term expires August 15, 1990.

David Simpson, Rock Hill, term expires August 15, 1988.

W. Everett "Beau" Smith, Columbia, term expires August 15, 1988.

Elton Todd, Greenville, term expires August 15, 1989.

Patrick Earl Watson, Columbia, term expired August 15, 1987 but still serving.

Charlton Whipple, Columbia, term expired August 15, 1987 but still serving.

III. COMMITTEE ON CONSUMER AFFAIRS

The Committee on Consumer Affairs monitors the implementation of the S.C. Consumer Protection Code and serves as a continuing liaison between the S.C. Department of Consumer Affairs and the General Assembly. As of the date of this report the Committee Members are:

Sen. John C. Lindsay

Sen. Isadore E. Lourie

Sen. J. Verne Smith
Rep. Dick Elliott
Rep. Eugene D. Foxworth, Jr.
Rep. Eugene LeRoy Nettles, Jr.
Mr. James F. Lyles
Ms. Blondell Ragin
Mr. W. E. Vereen

IV. S.C. DEPARTMENT OF CONSUMER AFFAIRS

History and Purpose

The S.C. Department of Consumer Affairs was established by the S.C. Consumer Protection Code, the state law which governs consumer credit transactions and provides for consumer protection in South Carolina. The law, which was signed by the Governor on August 13, 1974 became effective on January 1, 1975. As the state agency designated to represent the interests of consumers, the S.C. Department of Consumer Affairs attempts to resolve complaints and seeks to inform and educate consumers in order to create an atmosphere in which consumers will be more aware of their rights and responsibilities in the marketplace. On July 25, 1978, the law was amended to create the division of Consumer Advocacy as a part of the S.C. Department of Consumer Affairs, in order to assure that the consuming public was represented before state regulatory agencies undertaking to fix rates or prices for consumer products or services.

Organization

The S.C. Department of Consumer Affairs is organized into four divisions: Administration, Consumer Services (complaints), Consumer Advocacy and the Legal Division.

Main Objectives of the Department

As initially created, the primary function of the S.C. Department of Consumer Affairs was to regulate the consumer credit marketplace, to attempt to resolve any complaint arising out of the production, promotion or sale of consumer goods or services in South Carolina, whether or not credit is involved, and to promote a healthy competitive business climate with mutual confidence between buyers and sellers. The function and duties of the division of Consumer Advocacy are to provide legal representation of the consumer interest before state regulatory agencies when these agencies undertake to fix rates or prices for consumer products or services or to enact regulations or establish policies. In addition to its legal representation role, the division of Consumer Advocacy also monitors existing regulations, rate

structures, and policies of special consumer interest and is charged with the responsibility of reporting, through the media, to the general public on the effect of the proposed changes on their lives. The department licenses and regulates motor clubs and physical fitness service organizations and enforces the private personnel placement services act.

Services

The S.C. Department of Consumer Affairs serves consumers through the following activities:

- (a) Analysis and investigation of individual complaints;
- (b) Investigation of business practices if patterns of fraud are indicated or suspected;
- (c) Referral to agencies with direct jurisdiction for immediate and specific assistance;
- (d) Public educational and informational programs designed to educate the consumer about credit practices and problems, unfair and deceptive practices, remedies and relief available to consumers and current utility and insurance issues;
- (e) Initiation of and participation in legal actions to prevent individuals from violating the S.C. Consumer Protection Code, to prohibit unconscionable conduct, and to protect consumers from having to pay excessive utility and insurance rates;
- (f) Inform consumers who file a request under the Freedom of Information Act whether complaints have been filed against a particular company and how said complaints were resolved;
- (g) Legal representation of the public in utility and insurance rate and policy proceedings before regulatory agencies.
- (h) Licensing and regulation of motor clubs, physical fitness service organizations and private personnel placement agencies.

The S.C. Department of Consumer Affairs does not:

- (a) Advise whether or not a business is reputable;
- (b) Advise a consumer to buy a particular product or service or to patronize a particular business; and
- (c) Provide information such as the location or phone number of a business.

V. OFFICE OF ADMINISTRATOR OF CONSUMER AFFAIRS

The Administrator is appointed by the Commission on Consumer Affairs, serves at its pleasure, and is responsible to the commission for the following functions and purposes as prescribed by the S.C. Consumer Protection Code:

To further consumer understanding of the terms of credit transactions and to foster competition among the suppliers of consumer credit so that consumers may obtain credit at reasonable cost.

To protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit having due regard for the interests of legitimate and scrupulous creditors. To permit and encourage the development of fair and economically sound consumer credit practices.

To conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act.

To implement the S.C. Consumer Protection Code in the state of South Carolina in accordance with the terms and provisions therein contained.

To establish programs for the education of consumers with respect to credit practices and problems.

To counsel persons and groups on their rights and duties under the S.C. Consumer Protection Code.

To make appropriate studies to effectuate the purposes and policies of the S.C. Consumer Protection Code and to make the results of such studies available to the public.

To report on the use of consumer credit in South Carolina and to report on the problems of persons of small means in obtaining credit.

To cooperate with and assist the S.C. Attorney General and all state and local agencies performing consumer protection functions in carrying out their legal enforcement responsibilities for the protection of consumers.

To initiate and encourage programs to inform consumers of market practices and schemes which are fraudulent, deceptive or illegal; how to detect and avoid abusive consumer transactions; and of remedies and relief available to consumers.

To receive complaints of individuals pertaining to any consumer transaction arising out of the production, promotion or sale of consumer goods and services; endeavor to determine the probable basis and merit of such complaints and advise the complainant of such determination;

To refer to the appropriate state or federal agency any complaint which is under the jurisdiction of such agency for appropriate action;

To endeavor to bring about a voluntary adjustment of any such complaint not within the jurisdiction of any regulatory or enforcement agency;

To undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services;

To study the operation of consumer protection laws and recommend to the Governor and the General Assembly new laws and amendments to laws which would promote the protection of legitimate interests of consumers within this state.

The Administrator is also the Consumer Advocate for the state of South Carolina. The Consumer Advocate provides legal representation of the consumers interest before regulatory agencies undertaking to fix rates or prices for consumer products or services, enact regulations or establish policies.

The Consumer Advocate also monitors regulations, rate structures and policies of regulatory agencies and brings items of special interest and importance to consumers for their attention through the news media.

DIVISION OF ADMINISTRATION

The Division of Administration is responsible for providing budget, supply, personnel, training, data processing, news releases and consumer protection education and other administrative support to the S.C. Department of Consumer Affairs. In addition, the division is responsible for maintaining files and receipts of fees on the following acts:

- S.C. Consumer Protection Code and Credit Notification
- Maximum Rate Schedules
- Motor Clubs Service Act
- Physical Fitness Services Act

The following table shows the Budget Status Report for Fiscal Year 1987-1988.

A. STATEMENT OF EXPENDITURES

ACCOUNT	APPROPRIATIONS	EXPENDED	BALANCE
Administration:			
Personnel: (FTE)	(14.00)		
Unclassified	113,122.35	113,122.35	0.00
Classified	185,969.63	185,774.97	194.66
Other	15,154.02	14,233.07	920.95
Operations:	292,297.19	292,297.19	0.00
Legal:			
Personnel: (FTE)	(11.50)		
Classified	220,778.34	219,765.25	1,013.09
Operations:	6,796.00	6,796.00	0.00
Consumer Services:			
Personnel: (FTE)	(10.00)		
Classified	184,880.53	184,880.53	0.00
Operations:	18,646.60	18,646.60	0.00
Consumer Advocacy:			
Personnel: (FTE)	(7.50)		
Classified	188,791.24	185,456.34	3,334.90
Operations:	327,583.21	326,158.70	1,424.51
Employee			
Contributions:	177,339.89	177,339.79	0.10
Sale of Assets:			
	3,430.00	2,251.50	1,178.50
Totals:	1,734,789.00	1,726,722.29 *	8,066.71
	=====	=====	=====
Total Authorized FTE	(43.00)		

* Savings were generated by personnel turn-over and delayed hirings and includes budget reductions

Note 1 - Violations of SCCPC or TILA

In fiscal year 1987 the Department of Consumer Affairs collected \$13,453.50 to offset the cost of legal cases in process. \$47,476.27 of this money was spent in fiscal year 1988. \$55,776.68 was then carried forward to fiscal year 1989 for the same purpose, except for \$5,000 which is being held in trust for a period of five years ending during fiscal year 1989.

Note 2 - Contributions Foundations and Awards

In fiscal year 1988 the department brought forward \$908.00 from the previous year to be administered in cooperation with Direct Selling Education Foundation in Washington DC. In the fiscal year \$681.50 was

spent in this area. \$226.50 was carried forward to fiscal year 1989 to continue work in promoting consumer awareness in South Carolina during National Consumer Week and throughout the year.

Note 3 - Sale of Assets

In fiscal year 1988 the department carried forward to fiscal year 1989 \$1,178.50 in this area.

	(1)	(2)	(3)	(4)	(5)
	Total	Multi	Multi	Single	Single
	Loc	Loc	Loc	Loc	Loc
	Payable	Payable	Payable	Payable	Payable
	(1987)	(1987)	(1987)	(1987)	(1987)
Accounting Systems	25	25	25	25	25
Adults Clubs	2	2	2	2	2
Automobile Parts	174	812	28	116	174
Banking	80	738	742	29	80
Best Atlantic Books (2)	24	24	2	2	24
Building Materials	104	212	227	29	104
Consumer Finance	201	664	241	122	201
Consumer Insurance	17	17	0	17	17
Consumer Loans	21	21	2	18	21
Cosmetics	24	28	2	21	24
Credit Union	29	40	14	29	29
Department Stores	28	247	232	15	28
Educational Institution	4	4	0	4	4
Exercise Clubs	0	0	0	0	0
Farm Equipment	24	24	4	25	24
Furniture	41	47	12	32	41
Furniture Home	22	29	11	18	22
General Merchandise	0	0	0	0	0
Golf Course	0	0	0	0	0
Hardware/Print Stores	88	92	12	88	88
Home Furnishings	109	454	209	249	109
Household	52	22	16	17	52
Jewelry	41	124	16	22	41
Martial Arts	0	0	0	0	0
Mobile Homes	88	144	79	45	88
Motor Vehicles	270	604	41	229	270
Oil Companies	29	126	100	22	29
Pawn Brokers	4	10	2	7	4
Pharmacies/Drug Stores	21	22	4	48	21
Professional	12	20	11	9	12
Premium Service	4	9	2	4	4
Real Estate	14	14	2	12	14
Recreation Vehicle	26	26	2	24	26
Rent to Own	24	129	124	8	24
Regulated Lenders	12	27	21	4	12
Retail Shops	2	2	0	2	2

REGISTERED CREDITORS

The S.C. Consumer Protection Code requires that persons who make consumer credit sales, leases or loans, or persons who engage in rent-to-own, and persons who take assignments of rights against debtors arising from such transactions are required to file a notification form and pay a notification fee to the S.C. Department of Consumer Affairs for each location at which such transactions are made. The following table shows the type, and number of locations of such creditors currently registered with the S.C. Department of Consumer Affairs.

	(1) Single Loc Creditors	(2) Multi Loc Creditors	(3) Multi Loc	(4) Total Loc Paying (1+3)	(5) Total Filings Mailed (1+2)
Appliance Dealers	95	26	117	212	121
Athletic Clubs	2	0	0	2	2
Automobile Parts	116	60	99	215	176
Banks	29	51	745	774	80
Boat/Airplane Dealers	21	3	3	24	24
Building Materials	85	19	227	312	104
Consumer Finance	123	78	541	664	201
Consumer Insurance	17	0	0	17	17
Consumer Lease	18	3	9	27	21
Cemeteries	21	3	5	26	24
Credit Unions	24	5	16	40	29
Department Stores	15	13	232	247	28
Educational Institution	6	0	0	6	6
Exercise Clubs	0	0	0	0	0
Farm Equipment	32	2	4	36	34
Florists	9	0	0	9	9
Funeral Homes	35	6	12	47	41
General Merchandise	18	4	11	29	22
Golf Course	0	0	0	0	0
Hardware/Paint Stores	80	6	15	95	86
Home Furnishings	249	60	205	454	309
Hospitals	17	6	16	33	23
Jewelry	38	23	96	134	61
Martial Arts	0	0	0	0	0
Mobile Homes	65	23	79	144	88
Motor Vehicles	529	41	75	604	570
Oil Companies	36	23	100	136	59
Pawn Brokers	7	1	3	10	8
Pharmacies/Drug Stores	48	3	4	52	51
Professionals	9	3	11	20	12
Premium Service	6	2	3	9	8
Real Estate	12	2	2	14	14
Recreation Vehicle	24	2	2	26	26
Rent to Own	5	29	124	129	34
Regulated Lenders	6	6	31	37	12
Repair Shops	2	0	0	2	2

Retail Merchants	288	62	219	507	350
Sales Finance	3	5	86	89	8
Spas & Health Clubs	1	0	0	1	1
Sporting Goods	8	3	13	21	11
Savings & Loan	8	28	266	274	36
Service Stations	6	0	0	6	6
Tanning Salons	0	0	0	0	0
Undetermined	6	5	23	29	11
Wearing Apparel	27	17	110	137	44
Weight Loss	0	0	0	0	0
	-----	-----	-----	-----	-----
TOTAL	2,146	623	3,504	5,650	2,769

REVENUE:

Fees.....	\$507,940.00
Penalties.....	\$ 5,446.50
Total Received.....	\$513,386.50

MAXIMUM RATE SCHEDULE FILINGS

The Consumer Protection Code Revision Act of 1982 requires that creditors who wish to charge an Annual Percentage Rate (APR) in excess of 18% must file a Maximum Rate Schedule (MRS) with the S.C. Department of Consumer Affairs. A Maximum Rate Schedule must also be posted in the creditor's place of business. The following table shows the number and type of creditors which have filed an MRS with the S.C. Department of Consumer Affairs for FY 1987-1988.

		Total Filings	Total Locations
AD	Appliance Dealers	175	319
AC	Athletic Clubs	2	2
AP	Automobile Parts	133	205
BA	Banks	85	980
BD	Boat/Airplane Dealers	10	10
BM	Building Materials	75	380
CF	Consumer Finance	312	1,073
CI	Consumer Insurance	6	6
CL	Consumer Leases	21	96
CP	Cemeteries	13	13
CU	Credit Unions	4	4
DS	Department Stores	16	167
EI	Educational Inst	2	2
EC	Exercise Clubs	0	0
FE	Farm Equipment	24	26
FL	Florists	0	0
FH	Funeral Homes	5	5
GM	General Merchandise	19	22
GO	Golf Course	0	0
HS	Hardware/Paint Stores	79	92
HF	Home Furnishings	373	550
HO	Hospitals	1	4
JL	Jewelry	46	113
MA	Martial Arts	0	0
MH	Mobile Homes	71	108
MV	Motor Vehicles	676	712
OC	Oil Companies	24	48
PB	Pawn Brokers	1	1
PH	Pharmacies/Drug Stores	5	5
PR	Professionals	8	5
PS	Premium Service	2	2
RE	Real Estate	20	20
RV	Recreation Vehicles	20	23
RO	Rent To Own	11	35
RL	Regulated Lenders	24	46
RP	Repair Shops	4	4
RM	Retail Merchants	372	465
SF	Sales Finance	1	1
SP	Spas & Health Clubs	1	1

SG	Sporting Goods	19	19
SL	Savings & Loan	30	225
SS	Service Stations	6	6
TS	Tanning Salons	0	0
UN	Undetermined	15	37
WA	Wearing Apparel	16	48
WL	Weight Loss	1	1
	TOTAL	2,728	5,884

REVENUE:

Certified Copy Fees.....	\$ 148.00
Certified Rate Filing Fees.....	\$54,540.00
Total Received.....	\$54,688.00

MOTOR CLUB FILINGS

The Motor Club Services Act requires that all motor clubs doing business in the state, and representatives of these clubs, file with the S.C. Department of Consumer Affairs. The following information represents the motor clubs and motor club representatives filing with the S.C. Department of Consumer Affairs for FY 1987-1988.

Motor Clubs	36
Motor Club Representatives	2,153

REVENUE:

Motor Clubs	\$18,000.00
Representatives	\$43,060.00
Total Received	\$61,060.00

PHYSICAL FITNESS FILINGS

The Physical Fitness Services Act requires that all businesses offering physical fitness services in the state file with the S.C. Department of Consumer Affairs. The following information represents the physical fitness filing with the S.C. Department of Consumer Affairs for the FY 1987-1988.

	Total Filings	Total Locations
AC Athletic Clubs	14	14
AE Aquatic Exercise	0	0
DS Dance Studios	2	2
EC Exercise Clubs	8	11
GO Golf Courses	7	8
MA Martial Arts	4	4
SP Spas & Health Clubs	6	6
SR Skating Rinks	0	0
TS Tanning Salons	122	125

WL Weight Loss

19

27

Total

182

197

REVENUE:

Certificate of Authority... \$ 8,475.00

LEGAL DIVISION

The investigative and legal enforcement activities of the S. C. Department of Consumer Affairs are assigned to the Legal Division which is staffed by three staff attorneys, five investigators, a paralegal and a secretary and is supervised by the Counsel to the Administrator. Selected consumer complaints are investigated for possible violations of the law. The Division coordinates with appropriate federal, state, county, and local authorities as required.

Investigations conducted include both an information gathering procedure on selected complaints where suspected violations of the Code may be involved as well as more formal investigations where a violation of the Code is either evident or suspected.

During FY 1987-1988, the S. C. Department of Consumer Affairs continued a joint state-federal odometer investigation and prosecution effort. An investigator from the S. C. Department of Consumer Affairs continued as a special agent of the federal grand jury and was responsible for developing odometer tampering cases for federal criminal prosecution. As a result, South Carolina leads the nation in its odometer enforcement efforts.

As a result of odometer tampering cases successfully prosecuted during FY 1987-1988 and the media attention it generated, the S. C. Department of Consumer Affairs continued to receive citizens' complaints which were investigated. A total of 34 citizens' inquiries were received. A total of 17 used car dealers were criminally prosecuted and an additional \$21,775.00 in restitution was made to customers in either court ordered or out of court settlements. The joint investigation is ongoing.

During FY 1987-1988, the Legal Division commenced four probable cause investigations which are still pending at present. One investigation of the previous year concerning a buying service including motor club service and an apparent pyramid scheme was closed when it appeared that the company was closed, had never done more than preliminary solicitation in the state and had never actually done business in the state.

A cease and desist hearing was held concerning a physical fitness service center requiring the center to cease and desist soliciting memberships until it met financial responsibility requirements of the physical fitness service act.

Informal settlements and assurances were reached with certain finance companies without commencement of civil action. In cooperation with the Consumer Finance Division of the Board of Financial Institutions, the Legal Division required a consumer finance company to make an adjustment of prepayment rebate over-charges in excess of \$26,000. Also, in cooperation with the Consumer Finance Division, the Legal Division required a consumer finance company to cancel or adjust charges for club memberships and other by-products alleged to have been "packed" or required for the borrowers to qualify for their loans. The cancellations and adjustments amounted to approximately three hundred and

sixty-six thousand dollars. In addition, in a case in which the Legal Division alleged a bulk meat company had made fraudulent representations regarding the weight, quantity and quality of meat sales and engaged in bait and switch sales tactics, an assignee consumer finance company agreed to make refunds and adjustments in an amount exceeding six hundred thousand dollars.

The Landbank Equity case discussed in previous annual reports has been indefinitely stayed pending criminal proceedings against certain Landbank officers and employees instituted in the Federal District Court for the Eastern District of Virginia.

During FY 1987-1988, the General Assembly passed three additional statutes requiring administration by the Legal Division of the Department. Those statutes include the Loan Brokers Act, the Pawnbrokers' Act and the Telephone Solicitation Act.

An appeal concerning a restricted lender that failed to timely renew its maximum rate schedule is still pending at this time.

EDUCATION AND PUBLIC INFORMATION SECTION

A. Educational Activities

The S.C. Department of Consumer Affairs utilized workshops, speeches, and media presentations to provide consumer education assistance to a wide cross-section of South Carolinians. During most of FY 1987-1988 the position of Educational Coordinator was vacant. However the Public Information Director, acting in a dual role, continued to focus the Department's educational activities on a theme of "preventative consumerism" on such subjects as how to avoid frauds and schemes, healthy skepticism, effective consumer practices in handling consumer transactions ranging from automobile repairs to mail order purchases, coping with marketplace practices, and communicating more effectively with businesses in the resolution of complaints and problems arising out of consumer purchases of goods and services.

The educational programs were directed at students and teachers K-12 and college levels; and were provided for health institutions, churches, adult education programs, senior citizen groups, and other government agencies.

(a) Speeches were presented at 67 SC schools, institutions of higher learning, business and professional groups and other civic and church related organizations.

(b) Conducted the fourth annual essay contest for all South Carolina seventh grade students on the theme "How Do Consumers Buy Services Wisely." The winning students were presented a \$50 savings bond by South Carolina's Governor, The Honorable Carroll A. Campbell, in a special ceremony at the State House during National Consumers Week.

(c) Coordinated a live one-hour telecast on South Carolina Educational Television's JOURNAL on the topic CANCER:THE CONSUMER TEST. The program was shown statewide and featured the SC Consumer Advocate and medical personnel from Richland Memorial Hospital in Columbia. During the telecast, time was also allotted for viewer call-in questions. The program received one of the highest viewer ratings for such programming on SCETV.

(d) Co-sponsored a kick-off breakfast during the 1988 National Consumers Week activities with the International Credit Association of Columbia. The Honorable Fowler West, Commissioner, U.S. Commodity and Futures Exchange, Washington, DC was the keynote speaker.

(e) Sponsored a "CONFERENCE ON HEALTH FRAUD" to provide consumers insight on protecting themselves from false health claims and promises. The conference also assisted the Department in building and expanding health fraud networks and coalitions.

William Schwemmer, Assistant Commissioner, Food and Drug Administration, Rockville, Maryland was the keynote speaker.

B. Public Information Activities

During the twelve months covered by this report, some public information activities initiated previously were serviced on a regular continuing basis, additional activities as enumerated were added and some activities which were considered no longer sufficiently useful discontinued.

(a) Developed and produced ten public service announcements for the Administrator. Six were distributed statewide.

(b) Arranged over 80 radio and television appearances for the Administrator.

(c) Continued a public information Recall service which consists of a weekly four-page release listing recalls in the areas of food, vehicles, drugs, toys and products. After media distribution is made all recall notices are placed in the computer system under the subject category for quick access upon request.

(d) Developed and distributed newspaper releases on a variety of subjects to daily and less-than-daily newspapers, radio, and TV stations, wire services, and related media outlets.

(e) Served as the liaison for Carolina Healthstyles program, attended meetings, submitted material to them for publication, developed and coordinated in-house programs and activities.

(f) Continued to produce a weekly in-house-organ called The Week Ahead which is designed to improve communications and morale among agency personnel, gathered information and served as its editor/staff for the year.

The Public Information Section also performed a variety of activities such as speeches, workshops, seminars, media relations, and coordination of media activities.

DIVISION OF CONSUMER SERVICES

A. Consumer Complaint Procedure

When a consumer has a complaint, he or she should contact the business to give the business/company an opportunity to remedy the situation. If personal contact and subsequent discussion does not resolve the problem, the consumer should contact the S.C. Department of Consumer Affairs. Consumers can call the S.C. Department of Consumer Affairs from anywhere in the state at no charge by using the department's toll free WATS line 1-800-922-1594. The consumer should briefly describe the nature of the problem. In most cases, the consumer will be sent a complaint form which should be filled out with all pertinent information and returned to the S.C. Department of Consumer Affairs along with copies of all contracts, warranties, guarantees, advertisements or other written agreements or transaction documentation. When the complaint form is returned, it is assigned to a complaint analyst who carefully reviews the complaint and determines what action should be taken. If a complaint falls within the jurisdiction of another state or federal agency, it is referred to that agency for action. The first step in resolving a typical complaint is to mail a copy of the consumer's complaint to the business complained against with an accompanying form from the department requesting that the business state its position, and suggest a resolution if it is the opinion of the business that an action is appropriate. When a reply is received from the business, the complaint analyst assigned to the complaint studies the position of both the consumer and the business and recommends further action or an appropriate closing. The activities of the Consumer Services Division break down into two separate categories which are summarized on the following Tables I and II.

Table I (and accompanying explanation) summarizes the day-to-day work activities in terms of number of telephone calls received, responded to and referred; complaint forms distributed, completed and returned and other information and statistics of the work activities associates with that division.

Table II (and accompanying explanation) summarizes the manner in which complaint cases were completed and closed during FY 1987.

Several members of the division gave speeches, interviews, and presentations to civic groups, newspapers, TV reporters and other media regarding consumer complaints. Consumer Services continued its coordination with the Public Information and Education Section in alerting them to unique consumer problems, scams and concerns which might warrant consumer education and media attention efforts. Consumer Services staff also continued to identify violations and to refer them to the Legal Department for action.

TABLE I

	FY1988	FY1987	FY1986
1. Telephone calls & inquiries received	38,409	41,902	36,235
2. Percent of Increase over Previous Year	--	13.5%	--
3. Written Complaints Received	4,465	4,871	4,746
4. Complaints Referred to AUTOCAP	173	33	51
5. Complaint Forms Distributed	11,702	11,812	11,484
6. Telephone Inquiries Referred to other State/Federal Agencies	1,573	2,640	3,099

TABLE I

Explanatory Notes

1. This item refers to the total number of telephone calls received and handled by the Consumer Services Division. This includes general inquiry, advice and information calls; inquiries about whether or not a complaint has been filed against a company; etc.
2. This item refers to the percent of increase in total telephone calls received over the previous year.
3. No explanation necessary.
4. This item refers to automobile related complaints filed with the S.C. Department of Consumer Affairs but referred to AUTOCAP (Automotive Consumer Action Program) in a third-party mediation system designed to help dealers and consumers resolve disputes amicably and without resorting to litigation.
5. No explanation necessary.
6. No explanation necessary.
7. No explanation necessary.

TABLE II
Written Complaints Closed
July 1, 1987 - June 30, 1988

CLOSING STATUS	NUMBER	PERCENT
Satisfied	2109	74.0
Unsatisfied	224	8.0
Insufficient Merit	115	4.0
Abandoned by Consumer	200	7.0
Undetermined or Disputed Facts	207	7.0
Subtotal	2855	
Referred	1091	
Information Only	<u>415</u>	
TOTAL	4361	100%

TABLE II
Explanatory Notes

\$254,672.00 was recovered for consumers in refunds, or adjustments during FY 1988. 4361 complaints were closed in the year ending June 30, 1988. Of this total, 2109 of the 2855 complaints actually handled by the division were closed as satisfied. Not all of the consumers whose complaints were closed as satisfied received refunds. Some of these consumers received an explanation from the business which the S. C. Department of Consumer Affairs accepted as satisfactory.

1091 complaints were referred to other state or federal agencies having primary jurisdiction in the matter about which the consumer complained. 415 of the complaints were closed as information only, and required no action by the Department.

Table III
Complaint Categories Containing Greatest
Number of Complaints

Rank in FY 1988		Rank in FY 1987	Number FY 1988	Percent of Total Complaints
1.	Vehicles	1	970	21.7
2.	Contractors/Builders	2	335	7.5
3.	Mail Order	3	316	7.1
4.	Financial Institutions	3	312	7.0
5.	Credit Problems	5	208	4.7
6.	Appliances	6	198	4.4
7.	Regulated companies	4	190	4.3
8.	Advertsing	16	176	3.9
9.	Home Furnishings	7	136	3.0
10.	Utilities/Cable	13	109	2.4

Table IV
Written Complaints Received by County

July 1, 1987 - June 30, 1988

Counties	Population	Complaints Received	Complaints per 1000 Persons
Abbeville	24,630	20	.81
Aiken	118,720	103	.87
Allendale	11,440	1	.09
Anderson	147,470	149	1.01
Bamberg	18,540	11	.59
Barnwell	21,420	18	.84
Beaufort	96,490	90	.93
Berkeley	133,470	105	.79
Calhoun	12,410	16	1.29
Charleston	302,760	410	1.35
Cherokee	45,530	32	.70
Chester	31,180	17	.55
Chesterfield	39,710	19	.48
Clarendon	30,310	17	.56
Colleton	35,810	32	.89
Darlington	65,590	62	.95
Dillon	34,100	17	.50
Dorchester	85,450	119	1.39
Edgefield	19,970	8	.40
Fairfield	21,500	27	1.26
Florence	118,260	143	1.21
Georgetown	50,890	50	.98
Greenville	313,580	162	.52
Greenwood	62,360	43	.69
Hampton	19,690	9	.46
Horry	144,850	95	.66
Jasper	16,590	17	1.02
Kershaw	44,210	77	1.74
Lancaster	57,270	5	.09
Laurens	54,700	32	.59
Lee	19,260	10	.52
Lexington	167,630	342	2.04
McCormick	7,680	4	.52
Marion	35,330	60	1.70
Marlboro	33,680	11	.33
Newberry	32,710	54	1.65
Oconee	54,820	44	.80
Orangeburg	89,450	109	1.22
Pickens	87,090	16	.18
Richland	292,850	1050	3.59
Saluda	17,390	6	.35
Spartanburg	211,910	125	.59
Sumter	98,060	157	1.60
Union	31,540	25	.79

Williamsburg	40,860	12	.29
York	122,610	120	.98
	-----	-----	-----
TOTAL, SC	3,519,800	4051	
TOTAL - N.C. GA.,			
OTHER		414	
TOTAL COMPLAINTS		4465	

DIVISION OF CONSUMER ADVOCACY

I. Function

The Division provides legal representation of the consumer interest before State regulatory agencies undertaking to fix rates or prices for consumer products or services, enact regulations or establish policies. The Division also monitors regulations, rate structures and policies of consumer-related agencies and reports proposed changes and the effect of such changes on the lives of the citizens of the State to the public through the media.

II. Administrative Hearings

A. Public Service Commission (PSC)

The Division of Consumer Advocacy participated in 71 proceedings before the Public Service Commission (PSC) involving approximately \$98,701,037. Those hearings primarily involved requests for rate increases and new charges by telephone and electric utilities, gas companies, transportation companies and water and sewer companies. The PSC approved increases totaling approximately \$34,365,880 in additional revenues or 34.8% on average of the amounts requested. In many cases, the Division of Consumer Advocacy presented expert testimony on cost of capital, accounting, and rate design issues under consideration.

In addition, the Division of Consumer Advocacy assisted customers of both regulated and non-regulated utilities with questions about their bills and possible service problems.

B. S.C. Department of Insurance

The Division of Consumer Advocacy participated in hearings for 50 insurance filings at the S.C. Department of Insurance. Those filings involved 26 automobile insurance cases, 8 commercial liability insurance cases, 2 health insurance cases, 1 workmen's compensation case, 5 homeowners cases, 4 commercial multi-peril cases, 3 commercial automobile cases, and 1 medical malpractice case. In the completed cases, the Chief Insurance Commissioner approved increases in premiums totaling approximately \$237,893,007 or 57.5% of the \$413,158,178 requested.

The Division of Consumer Advocacy also assisted consumers who had complaints about insurance companies.

Finally, the Division of Consumer Advocacy monitored insurance legislative developments and reviewed various legislative proposals that would affect South Carolina policyholders. It also assisted the legislative Insurance Law Study Committee in compiling for recodification various South Carolina insurance statutes.

C. Federal Agencies

1. Federal Energy Regulatory Commission (FERC)

The Division of Consumer Advocacy is participating in a rate establishment case pending before FERC involving the South Carolina Generating Company, an affiliate of SCANA, the holding company for S.C. Electric and Gas Company as well as other companies. In connection with that case, the Division of Consumer Advocacy participated in several prehearing conferences, and the trial which took place in the fall of 1985. Portions of the Administrative Law Judge's Initial Decision were appealed to the full Commission. That case is still pending.

The Division of Consumer Advocacy is also participating in a pending FERC Notice of Inquiry concerning transmission service and sales-for-resale and three pending FERC Notices of Proposed Rulemaking concerning avoided costs for qualifying facilities, bidding systems, and independent power producers.

2. Federal Communications Commission (FCC)

The Division of Consumer Advocacy monitored a variety of decisions, policies, and proposals before the Federal Communications Commission affecting South Carolina telecommunications subscribers.

The Division of Consumer Advocacy is also participating in a pending FCC Notice of Proposed Rulemaking concerning price cap regulations and policies for dominant, as well as local exchange, carriers.

III. Civil Proceedings

A. Utility Litigation

The Division of Consumer Advocacy has been involved in 10 appeals to the circuit court of final orders of the Public Service Commission. Three cases were argued by the Division of Consumer Advocacy before the S.C. Supreme Court and five are pending before that Court.

The Division of Consumer Advocacy has continued its involvement in Federal court cases. The Division in conjunction with NASUCA prepared and filed an amicus curiae brief on behalf of the Mississippi Attorney General in the appeal of Mississippi Power & Light Company v. Mississippi Attorney General, et al, No. 86-1970. This case is still pending.

B. Insurance Litigation

The Division of Consumer Advocacy filed suit against Central States Health and Life Company, the Chief Insurance Commissioner, and South Carolina Department of Insurance, alleging that there was no evidence of record to support the portion of the increase

attributable to increases in medical technology expenses. In early 1987 the Supreme Court reversed the Circuit Court and Chief Insurance Commissioner's findings of this issue and remanded the case for adjustment of rates. On remand, the Chief Insurance Commissioner lowered rates prospectively but failed to provide refunds or credits for policyholders from the dates of implementation of his first order. On appeal the Circuit Court affirmed the Commissioner's order on remand. The case is now pending before the S.C. Supreme Court.

IV. Organizational Involvement

During the past year the S.C. Consumer Advocate and Assistant Consumer Advocate each served as Co-Chairmen of the Electricity Committee of the National Association of State Utility Consumer Advocates (NASUCA). In that capacity they and other Division of Consumer Advocacy attorneys actively participated in court proceedings, in hearings before Congress, and in seminars and public service talks on utility-related matters.

The Assistant Consumer Advocate is a member of the NASUCA Electricity Committee, Telecommunications Committee, and Washington Oversight Committee. He also serves as the official NASUCA observer to the Utility Association Oversight Committee of the National Association of Regulatory Utility Commissioners (NARUC). The Assistant Consumer Advocate also serves as a consumer representative in the Ford Motor Company's Consumer Appeals Board.

V. Legislative Involvement

A. Federal Legislation

At its request, the Division of Consumer Advocacy assisted the National Association of State Utility Consumer Advocates (NASUCA) in continuing its evaluation of the potential impact of the pending rail rate legislation on utilities and pending legislation clarifying the authority of State utility commissions over certain wholesale electric rates previously approved by the Federal Energy Regulatory Commission (FERC).

The Division of Consumer Advocacy also monitored other Federal legislation related to FERC and FCC regulatory matters.

B. State Legislation

The Division of Consumer Advocacy monitored and evaluated legislation affecting the interests of consumers and also assisted the legislative Insurance Law Study Committee and the staff of the S.C. Department of Insurance in compiling the various insurance statutes found throughout the S.C. Code for recodification and in fine-tuning the S.C. automobile insurance laws.

C. Administrative Regulations

The Division of Consumer Advocacy filed comments on the S.C. Department of Insurance proposed regulations concerning gender-based rates for automobile insurance. The Division of Consumer Advocacy also filed comments on proposed amendments and changes to the S.C. Reinsurance Facility recoupment charge calculation for automobile insurance. The Division of Consumer Advocacy participated in hearings on both matters.

INFORMATION PROCEDURE

Requests for information may be made to any appropriate division of the S.C. Department of Consumer Affairs. The appropriate division for inquiries relating to complaints or statistics is the division of Consumer Services. The appropriate division for inquiries relating to office management, personnel, budget, notifications, and fees is the division of Administration.

All requests for information which require a response in the nature of a legal opinion or interpretation or a statement of official policy or position of the agency must be submitted in writing.

Submissions or suggestions designed to improve the operation of the S.C. Department of Consumer Affairs should be submitted in writing to the office of the Administrator of the S.C. Department of Consumer Affairs, without regard to the division or activity to which they may pertain.

Requests for copies of publications, which may from time to time be issued by the S.C. Department of Consumer Affairs, should be addressed to the division of Administration. These requests may be in writing, by telephone or by personal visit.

Requests or submissions of any nature may be made in writing to the office of the Administrator of the S.C. Department of Consumer Affairs.

The agency's offices are located at 2801 Devine Street, Columbia, S.C. The mailing address is the S.C. Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250. The toll free WATS line number is 1-800-922-1594.

HISTORICAL DATA

August 13, 1974	The S.C. Department of Consumer Affairs was established by Act 1241 of 1974, as amended.
August 19, 1974	First commissioners appointed to the S.C. Commission on Consumer Affairs.
August 29, 1974	First members appointed to the Council of Advisors on Consumer Credit.
September 30, 1974	Irvin D. Parker of Columbia appointed as the first administrator of the S.C. Department of Consumer Affairs.
November 1, 1974	S.C. Department of Consumer Affairs became operational.
September 29, 1976	Act 686 of 1976, which added to the S.C. Consumer Protection Code those portions of the Uniform Consumer Credit Code which pertained to loans and licensed lenders, became effective.
July 25, 1978	The Division of Consumer Advocacy was created by Act 644, as a new division within the S.C. Department of Consumer Affairs, with the designation of the Administrator of Consumer Affairs as the Consumer Advocate. The Act also altered the composition of the Commission on Consumer Affairs, increasing its membership to 11.
Spring, 1980	Acts 326, 337, 411, 433 and 475 were passed which provided substantial changes to the S.C. Consumer Protection Code. These changes included clarification of the law regarding usury; retention of minimum charge for consumer credit sales/loans repayment; brought State Chartered Credit Unions under the S.C. Consumer Protection Code; allows 90 days for the S.C. Insurance Commissioner to approve or disapprove forms and rate schedules; provides escalator provision for designated dollar amounts in S.C. Consumer Protection Code; increased allowable rates for revolving charge accounts and for nonsupervised lenders; conformed 3 month S.C. Consumer Protection Code notice provision to Federal Reserve Board regulation; addresses mail order loan

territorial application sales/loan
situation.

- June 12, 1981 Act No. 107, the S.C. Private Personnel Agency Act was passed. This legislation licenses, regulates and monitors the activities of employment agencies or individuals engaged in obtaining employment for others and designates the S.C. Department of Consumer Affairs, among others, as an agency responsible for investigating complaints from consumers about the activities of employment agency type businesses as well as using their enforcement jurisdiction and authority when appropriate.
- July 1, 1981 Irvin D. Parker of Columbia resigned as administrator/consumer advocate of the S.C. Department of Consumer Affairs.
- August 4, 1981 Roy C. Harms appointed Acting Administrator of the S.C. Department of Consumer Affairs. Steven W. Hamm appointed Acting Consumer Advocate of the S.C. Department of Consumer Affairs.
- September 22, 1981 Steven W. Hamm of Columbia appointed as Administrator/Consumer Advocate of the S.C. Department of Consumer Affairs.
- July 1, 1982 Act 385, the Consumer Protection Code Revision Act of 1982 became effective. The act deregulates interest rates and provides for a business established maximum rate structure. All first mortgage loans were removed from the S.C. Consumer Protection Code and some additional charges were provided for. Consumer protections were increased by strengthening the provisions on unconscionability, requiring other state agencies to investigate complaints, providing the S.C. Department of Consumer Affairs with authority to investigate unfair trade practices and to file suit on behalf of consumers when the actual damages were \$300 or less.
- December, 1983 Governor Richard W. Riley designated the S.C. Department of Consumer Affairs as an additional official liaison with the U.S. Consumer Product Safety Commission which has duly commissioned its officials, under the

authority of the U.S. Consumer Product Safety Act, to conduct inspections and investigations under the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, the Flammable Fabrics Act, and the Refrigerator Safety Act.

September 20, 1984

The Motor Club Services Act became effective. The act requires that any organization which sells, furnishes or makes available to its members any motor club services must obtain from the S.C. Department of Consumer Affairs a Certificate of Authority to operate. Application for an operating Certificate of Authority requires a bond or deposit of bond in cash or securities of \$50,000, a certified copy of its charter from the Secretary of State, articles of incorporation, by-laws, financial statement and an explanation of its plan for doing business plus other documentation. The law applies to towing services, bail and arrest bond service, emergency road services, claim adjustment services, legal services, map services, emergency travel expense services, merchandise and discount services, travel touring and travel information services, financial services, check cashing services, personal property registration services, credit card services, insurance services, and buying and selling services to club members.

June 6, 1985

Act No. 127 of 1985 became effective. The act provides that a creditor may contract for property insurance on property all or part of which is related to the credit transaction.

June 20, 1985

Act No. 153 of 1985 was signed into law by Governor Richard W. Riley. The act amended the Consumer Protection Code so as to make it clear that it was unconscionable to charge excess prepaid finance charges no matter how those charges were designated if they substantially exceeded the usual and customary charges for a particular type of loan. The intent of the act was to prevent misrepresentation of rates and the charging of unconscionable rates no matter how they were disclosed or identified.

June 24, 1985

Governor Richard W. Riley signed the Physical Fitness Services Act into law. The act provides that everyone providing physical fitness services, for profit, in South Carolina must pay a yearly fee and obtain a Certificate of Authority from the S.C. Dept. of Consumer Affairs. Organizations utilizing membership contracts must post a bond or demonstrate financial responsibility that will satisfy claims against the bond. All operators must submit a certified copy of their charter from the Secretary of State, copies of membership agreements and contracts and a list of all outlets. Organizations that have been in business for five years are exempt from the bonding requirement.

January 1, 1986

Act No. 121 of 1985 became effective. The act added Part 7 to Chapter 2 of the South Carolina Consumer Protection Code. The part regulates consumer rental-purchase agreements and requires rental-purchase businesses to file a notification form with the S. C. Dept. of Consumer Affairs.

May 6, 1986

Act No. 401 of 1986, which authorized a two dollar minimum charge for property insurance, became effective.

May 12, 1986

Governor Richard W. Riley signed into law an act providing that no action for damages arising out of the defective or unsafe condition of an improvement to real property may be brought more than 13 years after substantial completion of the improvement. The act requires the S. C. Dept. of Consumer Affairs to publish notice of owners' or possessors' right to enter into any contractual agreement which extends any guarantee of an improvement being free from defect beyond the 13 years as provided in the act.

June 3, 1988

Act No. 16-17-445 of 1988 became effective. The act placed restrictions on unsolicited and automatically dialed consumer telephone calls and designated the Department as the enforcement agency.

July 1, 1988

Act No. 166 of 1987 became effective whereby

the Consumer Advocate is to review auto insurance rate and recoupment filings to ensure compliance with the Act.

July 1, 1988

Act No. 40-39-10 of 1988 became effective. The act defines, clarifies and limits the charges and fees that may be imposed in connection with a pawn transaction.

October 1, 1988

Act 40-58-10 of 1988 becomes effective. The act clarifies the steps that must be taken by a loan broker before funds from a customer can be earned and retained. The bill also requires loan brokers to register with the Department and to escrow any funds paid by a consumer until such time that the broker secures a loan for the consumer.

FOURTEENTH ANNUAL REPORT

OF THE

**DEPARTMENT OF
CONSUMER AFFAIRS**

of the

STATE OF SOUTH CAROLINA

1987

(Covering Period July 1, 1987 through June 30, 1988)

**Department of Consumer Affairs
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